

DRAFT RESOLUTION ON ELECTION INTEGRITY AND STATE SOVEREIGNTY

WHEREAS, the North Dakota Republican Party affirms that the right to vote is sacred and integral to self governance, that free, fair and legitimate elections in which every legal vote is accurately counted is essential to the continuation of the American Republic; and that citizens have the right and duty to demand that their government representatives investigate and resolve any issue threatening to destroy election integrity; AND,

WHEREAS, the 2020 presidential election has been marred by claims of election irregularities, anomalous datasets, accusations of fraud, grave constitutional concerns related to legislative authority, violations of state election codes; AND,

WHEREAS, such accusations of aforementioned fraud, irregularities and violations of state election codes have included ballot harvesting, noncitizen voters, signature matching error, denial of entry of poll watchers, verbal abuse and intimidation of poll observers, physical barricades and prevention of ballot counting observation, deceased voters, voter machine irregularities, improper contact with voting machines, absentee ballots cast without statutorily required application, absentee ballots cast that arrived after Election Day, absentee ballots cast from addresses other than legal residences, absentee ballots cast without a postmark, mail-in ballots cast by voters registered after registration deadline, unsecured drop boxes, among other accusations; AND,

WHEREAS, the 2020 Covid pandemic, and the correlating fear over transmission, spawned an unprecedented degree of election process changes and large scale mail-in voting across the entire country; that many of these changes were rushed, untested, haphazard, or even unlawful; that such changes included expansion of absentee voting and associated deadlines; eliminated or reduced eligibility requirements, novel "curing" standards, and direct mailing of actual ballots to every eligible voter in nine states; that most of these significant changes happened despite the CDC's determination that COVID-19 should not keep people from the polls provided masks, distancing and basic precautions were followed; AND,

WHEREAS, Article II, Section 1, Clause 2 of the US Constitution grants state legislatures the ultimate authority to appoint the electors who choose the president: "Each state shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress."; and in Bush v. Gore, Justices William Rehnquist, Clarence Thomas and Antonin Scalia stated that this clause "convey[s] the broadest power of determination" and "leaves it to the legislature exclusively to define the method" of appointment of electors, and further that "a significant departure from the legislative scheme for appointing Presidential electors presents a federal constitutional question." and that "in a Presidential election the clearly expressed intent of the legislature must prevail."; AND,

WHEREAS, despite the aforementioned constitutional clause, elected and unelected state officials in multiple states as well as state courts, took actions in direct conflict with statutory authority provided by their respective legislatures; AND,

WHEREAS, Section 1 of the Fourteenth Amendment of the US Constitution states that “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”; AND,

WHEREAS, state officials did not uniformly follow state election codes across all localities, thus creating a grave constitutional issue akin to the majority opinion in Bush v. Gore, which states that “The right to vote is protected in more than the initial allocation of the franchise. Equal protection applies as well to the manner of its exercise. Having once granted the right to vote on equal terms, the State may not, by later arbitrary and disparate treatment, value one person’s vote over that of another.”; AND,

WHEREAS, the 2005 Commission on Federal Election Reform co-chaired by former President Jimmy Carter and former Secretary of State James Baker concluded that while popular, mail in and early voting do not increase participation. The commission found that voting by mail is likely to increase the risks of fraud and contested elections. Early voting has similar issues plus the additional factor of allowing a significant number of electors to cast their ballots before they have all of the information about the candidates; AND,

WHEREAS, a June 21, 2017 letter submitted to Congress and signed by 103 computer science and national security experts, compiled by the nonpartisan National Election Defense Coalition, warned about possible dangers to the US election system, suggesting three primary corrections; including establishing voter-verified paper ballots as official record, safeguards against internet-related vulnerabilities and cyber attack detection, and requiring robust statistical post-election audits before certification; AND,

WHEREAS, a bipartisan report from the Senate Intelligence Committee concluded that all 50 states were likely targeted by Russian operatives seeking access to 2016 election infrastructure, including at least one major election vendor that was successfully breached; and further that, since 2016, cyberattacks from Russia, Iran, and possibly other nations, have continued against political campaigns; AND,

WHEREAS, election administration has evolved dramatically within the last several decades, including the mass adoption of computerized voting technology, outsourcing of much election technology to a handful of private corporations that operate with little public oversight or accountability, utilizing proprietary software; and that such technology in many states includes Direct Recording Electronic (DRE) voting, permitting touchscreen machines and sometimes no requirement of a paper trail; AND,

WHEREAS, aforementioned computer technology has been proven to be at great risk by many investigations; including Bev Harris, a citizen sleuth and the author of 'Black Box Voting: Ballot Tampering in the 21st Century', who determined that Diebold, then a primary manufacturer of voting machines, left the 40,000 files of its Global Election Management System (GEMS) unprotected on a public website; and in September 2011 a team from the US Department of Energy's Argonne National Laboratory hacked into Diebold's touchscreen systems, and they asserted that anyone with \$26 in parts and an eighth-grade science education could change the outcome of an election; and Dr. Andrew Appel, an election security expert and Princeton Professor of Computer Science, demonstrated in 2016 on Fox News that a Dominion Voting Machine could be hacked, switching votes from one candidate to another; AND,

WHEREAS, a report from the National Academies in review of the 2016 election concluded, "There is no realistic mechanism to fully secure vote casting and tabulation computer systems from cyber threats"; further work from other experts, including those at Brennan Center for Justice, Government Accountability Office, as well as Princeton, Johns Hopkins, Stanford, and Rice Universities, have revealed startling security flaws, including easily replicable keys and susceptibility to viruses, machines not being adequately safeguarded, wireless transmission to central tabulators, risks from last minute software "patches", along with other concerns, AND,

WHEREAS, on October 9, 2018, the National Election Defense Coalition (NEDC), R Street Institute, Association for Computing Machinery, US Technology Policy Committee (ACM USTPC), and watchdog group Common Cause, jointly issued a report titled 'Email and Internet Voting: The Overlooked Threat to Election Security', which examined and outlined serious potential national security threats; while online voting is permitted in some form in 32 states, and accounted for nearly 100,000 ballots in the 2016 election; AND,

WHEREAS, risk-limiting audits, which are only mandated in four states, are the gold standard of post-election audits, carried out when there is a voter-verifiable paper record of each vote, wherein election officials hand count a sample of paper ballots to provide evidence that the election result was correct; but that these audits are not generally common or mandated as standard election integrity, AND,

WHEREAS, a December 19th, 2020 poll from Rasmussen Reports indicated 47% of all voters believed there was enough fraud to affect the outcome of the election, including 30% of Democrats and 75% of Republicans; AND,

WHEREAS, a December 10th, 2020 poll from Quinnipiac University indicated 38% of all voters believed there was widespread fraud, including 3% of Democrats, 35% of Independents and 77% of Republicans; AND,

WHEREAS, a November 18th, 2020 poll from Reuters/Ipsos indicated that 14% of Democrats, 51% of Independents and 74% of Republicans do not believe that the election was legitimate and accurate; AND,

WHEREAS, over 80 lawsuits, thousands of sworn affidavits, signed under penalty of perjury alleging election irregularities, along with tens of thousands of specific observed incidents were undertaken or reported by both the campaign of Donald J. Trump for President, the Republican National Committee, and other parties, and several cases were dismissed on grounds of standing rather than grounds of evidence, thus robbing accusers of legal tools such as subpoena and other investigative powers; AND,

WHEREAS, officials from various federal entities including the Federal Bureau of Investigation (FBI), Department of Homeland Security – Cybersecurity and Infrastructure Security Agency (CISA), Election Infrastructure Government Coordinating Council (GCC), Election Infrastructure Sector Coordinating Council (SCC), U.S. Election Assistance Commission, as well as Department of Justice (DOJ) through Attorney General William Barr, have all collectively and arbitrarily made various claims that election fraud is either not systemic, or even nonexistent, despite the fact that none of these entities have conducted significant investigations or inquiries into election irregularities; AND,

WHEREAS, this widespread lack of any significant journalistic, governmental, or independent investigation into all of the aforementioned questions, has contributed to furthering a political climate of division, doubts over the integrity of our elections and mistrust of election officials, even potentially endangering the peaceful transition of power, and therefore that further investigation could help to alleviate these concerns; THEREFORE,

BE IT RESOLVED, that the North Dakota Republican Party calls upon its legislators to pass legislation in the 2023 session to ensure election integrity. Specific changes should include:

- Remove the ability of the governor, secretary of state, and county officials to change or suspend election law under emergency declarations or any other means.
- Return the sanctity of election day by removing early voting and mail in voting. Electors should vote in person at a polling place on election day or by absentee ballot for an approved reason.
- Reduce the reliance on electronic equipment in the voting and counting process and ensure that any machines used in the process are free from the possibility of external tampering through internet connections or malicious code introduced by bad actors.

; THEREFORE,

BE IT FURTHER RESOLVED, that the North Dakota Republican Party calls upon its congressional delegation to support the creation of a special 2020 Election Commission, and that such commission shall be bipartisan, comprised of election officials, national security and computer science experts, and a random selection of voters from each state to observe the full proceedings of the commission; THEREFORE,

BE IT FURTHER RESOLVED, that the North Dakota Republican Party calls upon its congressional delegation to oppose HR1 - The For the People Act - that seeks to federalize voting rights and harm the sovereignty of North Dakota. ; THEREFORE,

BE IT FURTHER RESOLVED, that the Congress and the President direct federal law enforcement agencies to assist with the Commission's investigations to the furthest extent of the law, including subpoena and full audit powers, and that the Commission shall conclude with a report within no less than twelve months and make such report publicly available without redactions immediately upon completion; THEREFORE,

BE IT EVEN FURTHER RESOLVED, that the Congress shall make the "critical infrastructure" designation for election systems permanent, instead of subject to executive decree, thus giving states access to Department of Homeland Security resources and regular information on cyber vulnerabilities; and to direct the National Institute of Standards and Technology (NIST) to develop best practices for securing election systems; and that adequate funding be provided for the Election Assistance Commission to help adopt better election security guidance, auditing standards, information sharing and help states develop certification standards for election equipment and vendors.